

REMARKS

Generally

The Examiner has indicated that claims 1-14 are pending in the action; that claims 3-4, 7, and 9-10 are objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim; that claims 1-2, 5 and 12-14 are rejected under 35 U.S.C. 102(b) as anticipated by the patent to Ladt (US 4,580,698); that claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladt in view of Schuerger (US 2,997,205) and Allen (US 4,029,163); that claims 6-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladt in view of Johnson et al. (US 3,959,636); that claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ladt in view of Schuerger; and that claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ladt in view of Nemechek (US 4,401,174). Applicant, by this Amendment, cancels claims 1-14, and submits new claims 15-22 in accordance with the Examiner's indications.

The Examiner has also indicated that the drawings are objected to because reference sign "58a" is not shown in the drawings; and that reference number. 90 in the specification has been used to designate both the "level sensor" and the "truck." Applicant by this Amendment submits corrected (informal) drawings, filed concurrently herein, in accordance with the Examiner's indications.

Response to Objection to Informalities

The Examiner has indicated that claims 3-4, 7, and 9-10 are objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. These claims have been cancelled. The content of claims 5, 7, and 9-10 is recited in new claims 19 and 20, which comprise original claim 5, revised, consolidated with original claims 7, 9 and 10. The functional elements recited in original claims 3-4 have been recast in new

claim 17 as functions performed by a program included in the PLC introduced in new claim 16.

Response to Rejections Based on 35 U.S.C. § 102(b)

The Examiner has indicated that claims 1-2, 5, and 12-14 are rejected under 35 U.S.C. 102(b) as anticipated by the patent to Ladt (US 4,580,698).

It is well established that:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1052 (Fed. Cir. 1987).

“The identical invention must be shown in as complete detail as is contained in the ... claim.”

Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In the instant case, while Ladt teaches an automatically adjustable continuous feeder system; Ladt fails to teach a load-out system that includes means for controlling the differential refilling of the load-out hopper, as claimed in new independent claim 15.

For the foregoing reasons, it is respectfully submitted that new claim 15 is not anticipated by Ladt as Ladt does neither expressly nor inherently describes apparatus having each and every element as set forth in newly submitted claim 15, and claims depending therefrom. Accordingly, it is submitted that new claims 15 through 22 are in condition for immediate allowance and such allowance is respectfully requested.

Response to Rejections Based on 35 U.S.C. 103(a)

The Examiner has indicated that claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladt in view of Schuerger (US 2,997,205) and Allen (US 4,029,163); that claims 6-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladt in view

of Johnson et al. (US 3,959,636); that claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ladt in view of Schuerger; and that claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ladt in view of Nemechek (US 4,401,174).

A rejection under Section 103(a) requires that all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

In the instant case, none of the cited references, either alone or in combination with Ladt, teaches or suggests a multi-hopper load-out system that includes control means for differentially refilling the load-out hoppers to optimize and economize the load-out operation. Heretofore, the focus of load-out control has been on the hopper load-out itself, separate and apart from any means for controlling the refill of a plurality of hoppers. The present invention introduces a new level of control, particularly in sludge load-out systems, which are notoriously inaccurate and inefficient.

Accordingly, because the all of the claim limitations set out in independent claim 15, and claims depending therefrom, are not taught in the references, it is respectfully submitted that claims 15-22 are in condition for immediate allowance, and such allowance is respectfully requested.

Regarding the Drawings

Finally, the Examiner has also indicated that the drawings are objected to because reference signs "58a" and "110" are not shown in the drawings; and that reference number 90 in the specification has been used to designate both the "level sensor" and the "truck." Applicant by this Amendment submits corrected (informal) drawings in accordance with the Examiner's

indications. No new matter is included. Reference number 90 has merely been removed from the specification where it was improperly included; and reference numbers 58a and 110 are now included on the proposed amended drawings, shown in red ink.

The Examiner has further indicated that the original (informal) drawings are objected to, and that new drawings are required. Applicant will file new, formal drawings upon receipt of a Notice of Allowance.

Version with Markings To Show Changes Made

The following paragraphs include markings to show changes made to replacement paragraphs indicated above.

At page 6, beginning at lines 21:

In automatic mode the load-out operator uses a touchpad or key pad at the operator interface station to input truck [90] and customer identification information and intended load weights. The touchpad transmits this data to the PLC where it is integrated to effect metering gate operation. On initiation of the load-out cycle from the PLC, the metering gate moves to its full open ("course") position and initiates sludge flow. When approximately 70% of the desired load is reached (in most instances approximately 35,000 lb in approximately two minutes), the PLC moves the gate to an intermediate position until 95% of load-out is reached. The gate then closes to the "fine" position until 100% of the load-out weight (approximately 50,000 lb) has been completed. The PLC then closes the gate completely, terminating load-out.

Conclusion

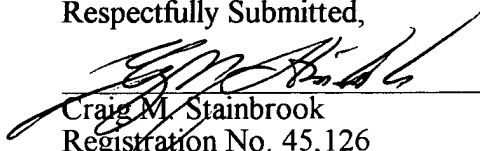
In view of these amendments and comments it is believed that each of the presently pending claims in this application is in condition for immediate allowance, and such allowance is respectfully requested. The Examiner is invited to call Applicant's undersigned attorney if, in the opinion of the Examiner, a telephone conference will in any way expedite prosecution of this application.

Clerical Note

Applicant respectfully requests that the Examiner take note of a new Attorney Docket Number assigned to this case: 00434.P2.

Date: 04/02/2002

Respectfully Submitted,



Craig M. Stainbrook
Registration No. 45,126
3550 Round Barn Blvd., Suite 203
Santa Rosa, CA 95403
Telephone (707) 578-9333